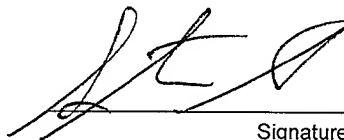


| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) SOL002 | |
|---|--|--|--------------------------|
| <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p> | | Application Number 09/593,786 | Filed June 14, 2000 |
| | | First Named Inventor Darius, et al. | |
| | | Art Unit 3696 | Examiner Ella Colbert |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>35,361</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p> | | | |



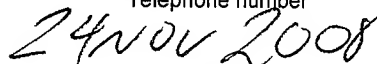
Signature

Steven H. Slater

Typed or printed name

972-732-1001

Telephone number



Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-------------|---|-------------|---------------|
| Appellant: | Darius, et al. | Docket No.: | SOL002 |
| Serial No.: | 09/593,786 | Art Unit: | 3696 |
| Filed: | June 14, 2000 | Examiner: | Colbert, Ella |
| For: | Mortgage Information Exchange Platform for a Broker to Select a Mortgage Lender | | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Claims 1-6 are pending in the present application. Appellant appeals the final rejection of all pending claims, with claim 1 being rejected as Claim 1 has been rejected under 35 U.S.C. § 102(a) as anticipated by U.S. Patent No. 6,233,566 to Levine, et al. (hereinafter "Levine"), and with claims 2-6 being rejected under 35 U.S.C. § 103(a) as unpatentable over Levine in view of U.S. Patent Publication No. 2004/0002915 to McDonald, et al. (hereinafter "McDonald").

Context of the Invention

The present invention relates to a loan origination process wherein a *mortgage broker* can obtain loan information from several *wholesales lenders* [0001]. Unlike retail lenders, wholesale lenders use mortgage brokers operate as intermediaries between the wholesale lenders and borrowers [0004]. Because interest rates, incentives, and other loan information changes constantly, a need exists for efficient real-time communication of loan information from the wholesale lenders to the brokers [0006].

As is known from today's headlines, long after the loan transaction has been completed various loans may be pooled together and sold as securities. This transaction involves neither the borrower nor the mortgage broker, but rather involves the *lenders* and *investors*. This is the type of transaction to which the cited prior art, Levine, relates (Levine at Abstract, Col. 1, lines 10 - 15, Col. 5, lines 41 - 52).

Issue Presented for Review

Does Levine's disclosure of (a) communications between a borrower and a mortgage broker, and (b) communications between a lender and investors anticipate claim 1, which requires "information exchange between a broker and a set of wholesale lenders" (emphasis added)?

Discussion

Claim 1 recites, in combination with other elements, "information exchange between a broker and a set of wholesale lenders." An example of information exchange between a broker and a set of wholesale lenders is provided in Figure 1 of the present application, reproduced below for Examiner's convenience. Note that the borrower is not a party to the information exchange.

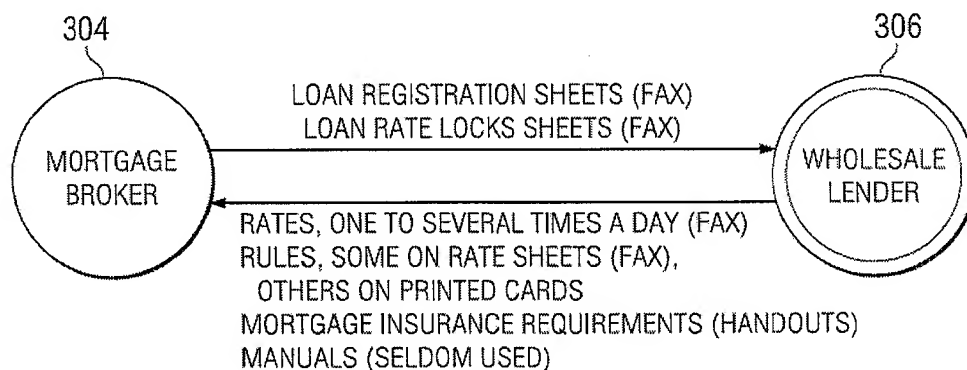


FIG. 1

Figure 1: Figure 1 of Appellant's specification

Examiner has asserted that U.S. Patent No. 6,233,566 to Levine (“Levine”) discloses, at col. 3, lines 7 – 49, “information exchange between a broker and a set of wholesale lenders.” This is incorrect. Column 3 of Levine discusses a “loan origination phase” wherein “the potential borrower contacts the lender or a broker working with a lender” (Col. 3, lines 7 – 11). This can be illustrated as below:

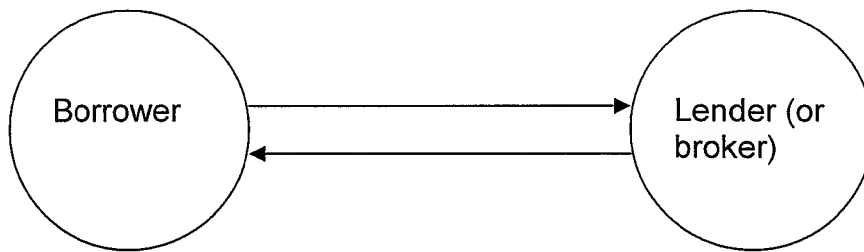


Figure 2: Diagram of information exchange in loan origination phase

Note that the only information exchange disclosed in col. 3, lines 7 – 28, of Levine (wherein the loan origination phase is discussed) is between a borrower and a lender or broker. Levine nowhere discloses any information exchange between a broker and wholesale lenders during the loan origination phase.

Column 3 of Levine also discusses a “loan wholesaling phase” at lines 29 – 49. The only information exchange disclosed in this section of the reference, however, is between a lender and a mortgage banker. This can be illustrated as follows:

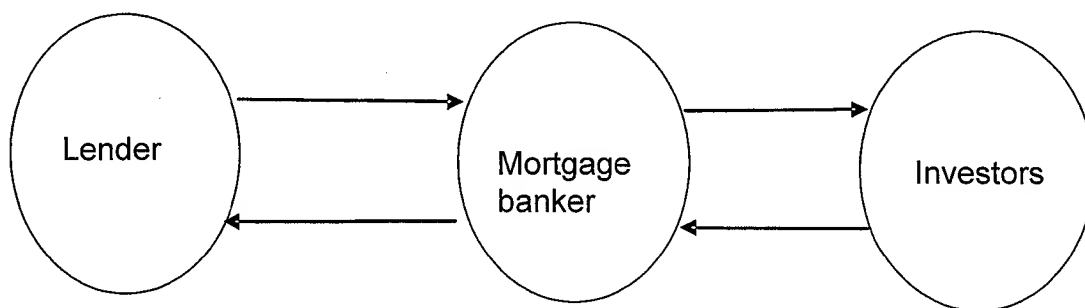


Figure 3: Diagram of information exchange in loan wholesaling phase

Again, note that Levine nowhere discloses information exchange between a broker and wholesale lenders in this section of the reference either.

Simply put, claim 1 relates to and recites communications between a broker and wholesale lenders. These communications happen during a loan origination phase. Even though Levine discusses the loan origination phase (col. 3, lines 7 – 29), Levine nowhere discloses communications between brokers and wholesale lenders. Rather, Levine discloses communications between a borrower and a lender or broker. These are completely different communications than the information exchange between a broker and wholesale lenders recited in claim 1.

Further, Levine discloses communications between a lender, a mortgage banker and investors for pooling loans at col. 3, lines 29 – 49. This teaching is simply inapposite to the claimed information exchange between a broker and wholesale lenders, as this portion of Levine addresses a phase in the loan life cycle wherein loans are simply being pooled for sale to investors – this is not part of the loan origination phase.

In the Response to Arguments section of the Final Office Action, Examiner has also asserted that several sections in Levine address exposing one or more generic lender profiles. Examiner has cited to Col. 21, lines 41 – 48 and lines 49 – 59 for support. This section of Levine merely addresses loan wholesaling wherein lenders can maintain a “profile” including contact information and “a list of all loans or loan pools ... for sale in the system” (emphasis added). Again, this section of Levine provides no disclosure of exposing to a broker a “generic lender profile” that simultaneously exposes “generic mortgage profile information for a plurality of different specific wholesale lenders” as required by claim 1. This is for the simple reason that this disclosure in Levine is simply unrelated to the exchange of information between a broker and

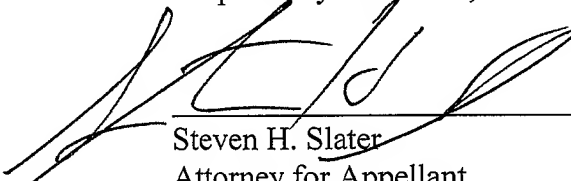
a set of wholesale lenders. By distinct contrast, Levine is disclosing communications between a lender and investors in a pool of loans. Such disclosure is simply not relevant to claim 1.

In summary, Levine discloses information exchange between a borrower and a lender during the loan origination phase, but nowhere discloses information exchange between a broker and wholesale lenders during this phase. Levine also teaches communications between a lender and a mortgage banker and/or investors during a pooling phase, but nowhere teaches exposing to a broker a generic lender profile that simultaneously exposes generic mortgage profile information for a plurality of different specific wholesale lenders. As such, claim 1 is patentably distinct over the reference and should be allowed.

With the above remarks establishing the patentable distinctions of claim 1 over Levine, Appellant respectfully note that U.S. Patent Publication No. 2004/0002915 to McDonald ("McDonald") fails to overcome the above cited shortcomings in the primary reference, hence claims 2-6 are also allowable over the prior art. Appellant respectfully requests withdrawal of the final rejection and the claims 1-6 be passed to issuance.

24 NOV 08
Date

Respectfully submitted,


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